

In re) Fair Hearing No. 20,160
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Appeal of)

The petitioner appeals a decision by the Office of Vermont Health Access denying her request for comprehensive orthodontic authorization for her daughter under Medicaid. The issue is whether the daughter's condition meets the standard of severity for Medicaid coverage.

1. The petitioner has a fourteen-year-old daughter whose dentist has recommended comprehensive orthodonture for her. Her orthodontist submitted a Medicaid request for orthodontic treatment in December 2005 on a form prepared by the Department. On that form he checked only that the girl's dentition met one minor criterion, "1 impacted cuspid". There was no indication on the form that there was any "other handicapping malocclusion". In a decision dated January 6, 2006 the Department denied this request after determining that the girl's orthodontic problem was not severe enough to qualify for comprehensive orthodontic treatment.

2. At a hearing held on February 24, 2006, the petitioner submitted a letter from her daughter's orthodontist, dated February 17, 2006, that summarized her daughter's dental problems, but which did not contain any medical rationale for orthodonture other than "to open bite and improve smile esthetics". The hearing was continued to allow the petitioner to obtain further evidence of medical necessity.

3. At a hearing held on April 21, 2006 the petitioner conceded that she could obtain no further statement from her daughter's orthodontist regarding medical necessity.

ORDER

The Department's decision is affirmed.

REASONS

The Department has adopted regulations which require it to pay for only "medically necessary" orthodontic treatment for Medicaid recipients under the age of twenty-one. W.A.M. §§ M622.1, 622.2, and 622.3. The regulations, and rulings by the Board and the Vermont Supreme Court, further provide that to be considered medically necessary the patient's condition must meet or equal one major or two minor malocclusions according to diagnostic criteria adopted by the department's

dental consultant or if otherwise medically necessary under EPSDT found at M100. See M622.4.¹

In this matter, the petitioner presented evidence that her daughter meets one of the minor criteria used by the Department to determine severity for the orthodonture program, but was unable to obtain any evidence that she met any other criteria or that her combination of dental problems is equally as severe or "handicapping" as any combination of those impairments that are listed. Nor could she obtain sufficient medical evidence that her daughter has any other

¹ The criteria require that the malocclusion be severe enough to meet a minimum of 1 major or 2 minor diagnostic treatment criteria as follows:

Major Criteria

Cleft palate
 2 impacted cuspids
 Other severe cranio-facial anomaly

Minor Criteria

1 Impacted cuspid
 2 Blocked cupsids per arch
 (deficient by at least 1/3 of needed space)
 3 Cogenitally missing teeth, per arch
 (excluding third molars)
 Anterior open bite 3 or More teeth (4+mm)
 Crowding, per arch (10+ mm)
 Anterior crossbite (3+ teeth)
 Traumatic deep bite Impinging on palate
 Overjet 10+mm (measured from labial to labial)

condition that necessitates orthodonture as part of its treatment.

Inasmuch as the Department's decision in this matter is supported by the evidence and in accord with the pertinent regulations it must be upheld. 3 V.S.A. § 3091(d), Fair Hearing Rule No. 17.

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